

Appn. No. 10/730,521
Amdt. Dated: July 6, 2005
Reply to Final Office Action dated January 7, 2005

REMARKS

The foregoing Reply and these remarks are in response to the Final Office Action dated January 7, 2005 ("Office Action"). A three month Request for Extension of Time is filed herewith. Please charge Deposit Account No. 50-2884 in the amount of \$510 pursuant to 37 CFR §1.17(a)(1).

At the time of the Office Action, claims 1-5 and 7-13 were pending in the application. Claims 1-4, and 9-10 were rejected under 35 U.S.C. §102 (b). Claims 5, 7-8, and 11-13 were rejected under 35 U.S.C. §103(a).

I. Claim Rejections on the Art

Prior to addressing the Examiner's rejections on the art, a brief review of Applicants' invention is appropriate. The invention concerns a gaming table and a method for operating a gaming table. A game outcome determining device, exclusive of a card game, is provided for determination of a random outcome for a game. The game outcome determining device is arranged for manual operation initiated by a direct physical interaction of a dealer with the device. Further, the game output determining device produces a random outcome without automation. Instead, the random outcome is directly and exclusively determined based on a random characteristic of the at least one direct physical interaction. There is no intermediate machine processing step that affects the random outcome.

Player positions are located adjacent to a plurality of player terminals around the gaming table. Each terminal includes a player user interface to permit a player to select at least one possible outcome of the game, occurring exclusively at the gaming table, and to make wagers on the possible outcome. A processor is provided for comparing the wagers to the random outcome for determining winning ones of the wagers, and for crediting winning proceeds directly to the player terminals. Significantly, the game outcome determining device is provided at a location that is operatively inaccessible to any of said players situated at said player positions.

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Rejection of Claim 1 under 35 U.S.C. §102(b)

Claim 1 was rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,770,533 to Franchi. In his rejection, the Examiner has stated that certain of Applicant's limitations are intended use of the device and do not further limit the apparatus of the claim. In response, Applicant has now amended claim 1 in an effort to address the specific issues raised by the Examiner. With regard to the interaction of the dealer with the outcome determining device, claim 1 has been amended to avoid reciting mere intended use. Specifically, claim 1 now recites as a further limitation:

"wherein said game outcome determining device is responsive to a random characteristic of said at least one direct physical interaction, exclusive of any intervening machine processing, to determine a value of said random outcome".

The claim language is intended to recite with greater particularity that which those familiar with the art would understand occurs when, for example, a croupier spins a roulette wheel. The physical interaction conveys an energetic input, namely kinetic energy, to the roulette wheel. The amount of energy applied to spin the wheel is random in nature and has an effect on the random outcome. Likewise, the random application of the energy required to manually release the ball has an effect on the random outcome.

Significantly, the additional limitation is not mere intended use but recites a specific physical limitation associated with the device. The game outcome determining device determines a value of the random outcome based on a random characteristic of the direct physical interaction.

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The foregoing amendment is also intended to address the assertion by the Examiner in Section 2 of the Office Action in which the Examiner states:

Applicant may note that the manual operation of the random outcome determining device by the dealer does not further add any limitation to the apparatus in the claim. Rolling by a dealer or by a player depends on the method of playing and does not change the apparatus. . . .

Office Action, Section 2, page 3.

The amended language changes the focus away from the nature of the dealer action, and instead recites the physical operating characteristic of the random outcome determining device. Namely, the game outcome determining device determines a value of the random outcome based on a random characteristic of an input supplied by the direct physical interaction. An operating characteristic of the outcome determining device is that the random value is produced exclusive of any intervening machine processing that might change the random characteristic of the physical interaction.

In the Office Action, the Examiner has also stated that the recitation of "at least one physical interaction" in claim 1 could be broadly interpreted as pressing a start button to start the automation, where "pressing a button" would be a direct physical interaction to determine the outcome. In response, Applicant wishes to remind the Examiner that claim 1 does not merely recite that there is an absence of automation in the initiation of the random outcome determining process. Instead, claim 1 specifically recites that the manual operation produces the random outcome without automation. In addition, however, the amendments to claim 1 are intended to overcome any ambiguity by specifying that the game outcome determining device actually determines a value of the random outcome based on a random characteristic of the direct physical interaction exclusive of any intervening machine processing.

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Applicant now turns to the Examiner's comments in Section 2, page 3 of the Office Action, wherein the Examiner has stated that:

"Rolling by a dealer or a player depends on the method of playing and does not change the apparatus."

Office Action, Section 2, page 3.

In response to the Examiner's assertion, Applicant has now amended claim 1 to recite additional structure of the claimed apparatus. Specifically, claim 1 has now been amended to recite that the game table further includes a plurality of player positions located adjacent to a plurality of player terminals that are located exclusively at the gaming table. Moreover, claim 1 now recites that the game outcome determining device is provided at a location that is operatively inaccessible to any of said players when they are situated at said player positions. This feature is clearly illustrated in Fig. 1 of the Applicants specification. The recited structure in amended claim 1 precludes operation of the outcome determining device by any player when they are participating in the game at their respective player terminals. The foregoing amendment is believed to correct the deficiency in claim 1 which was cited by the Examiner.

Turning now to the remaining comments set forth in Section 2 of the Office Action, the Examiner's asserts that Franchi discloses manually operated dice. However, it is not entirely clear from Franchi exactly how the dice are rolled. It is implicit from the passage which the Examiner refers to, and those immediately following that there are dice present. For example, one of the issues addressed by the special dice is said to be that of substitution (column 17, line 1). However, Applicant notes that it is inherent in the nature of craps that the player rolls the dice. Unless radical changes to the rules are contemplated, which is not at all the nature of the teaching in Franchi, one would reasonably understand that the player rolled the dice. As such, a craps game would not appear to meet the limitations of amended claim 1. As noted above, amended claim 1 specifically recites that the game outcome determining device is provided at a location that is

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operatively inaccessible to any of the players when they are situated at the player positions. This claim limitation clearly distinguishes the craps game disclosed in Franchi where players, rather than a dealer, are presumed to control the game outcome determining device.

The Examiner has also asserted that Franchi teaches winnings and losses being directly credited to the player. Presumably the Examiner is referring to the limitation in claim 1 which recites that winning proceeds are credited directly to the "player terminals". In any case, Applicant respectfully disagrees with the Examiner's contention. What Franchi actually teaches is that winnings and losses are credited to a betting card. See col. 2, line 41-54, col. 7, lines 4-15. This is an important distinction because Franchi seeks to avoid dealer handling of cash. Accordingly Franchi teaches that the betting cards are cashed out at a casino bank not at the table. See col. 2, line 41-54, col. 7, lines 4-15.

Rejection of Claims 2 and 3 under 35 U.S.C. §102(b)

Claim 2 recites a dealer terminal including a dealer user interface configured to permit said dealer, after receipt of payment from a player, to directly credit one of said player terminals. A reading of Franchi leads one to understand that a betting card in Franchi is credited after a player visits a casino bank where all cash transactions occur. See col. 2, line 41-54, col. 7, lines 4-15. The dealer in Franchi does not receive payment from the player to credit the player terminal.

Similarly, claim 3 recites that the dealer user interface is configured to permit the dealer to pay out to a player, upon request, a remaining credit balance on a player terminal in use by said player. In contrast, Franchi makes it quite clear in its teachings that the player should take his card to the cashier to have credits placed. For example, the Examiner is referred to column 2, lines 42 to 54, and column 7, lines 4 to 15.

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In view of the foregoing, it is apparent that the subject matter of claims 2 and 3 is entirely inconsistent with what is taught by Franchi. If one has a betting card, there is no possibility that the dealer terminal can directly credit the player terminal. Similarly, Franchi teaches away from allowing the dealer to handle cash. Accordingly, Franchi teaches away from the notion of the dealer paying remaining credit balance on a player terminal to the player.

With regard to claim 4, Franchi discloses a fully automated roulette table. See col. 4, lines 37-41. Such automated roulette tables are well known in the art as including automatic spinning and ball dispensing. Accordingly, the manual operation of the roulette table recited in claim 4 is clearly not taught by Franchi.

The remaining claims rejected by the Examiner under 35 U.S.C. §102 (b), namely claims 9-10, are believed to be patentable at least by virtue of their dependence upon an allowable base claim.

Claim rejections under 35 U.S.C. §103(a)

Claims 5, 7-8, and 11-13 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Franchi in view of U.S. Patent No. 6,336,633 to Webb. In response to the Examiner's rejection, claim 5 has been amended to include certain limitations similar to those discussed above. For example, claim 5 now recites that a random characteristic of the direct physical interaction of a dealer with the outcome determining device determines a value of the random outcome without automation. Notably, Franchi does not teach that the variable outcome determining device produces a random output based on the random characteristic associated with the direct physical interaction of a dealer with the device. In generally, Franchi teaches automated tables where the spinning and release functions are conventionally handled by machine. At best, Franchi teaches the use of dice. However, it is apparent that the use of the dice is by a player – not a dealer.

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Further, with regard to claim 5, Applicant respectfully disagrees with the Examiner's assertion that Franchi teaches winnings and losses being directly credited to the player terminals. Franchi leads one to understand that it is actually a betting card which is credited, not the terminal. Franchi makes it quite clear in its teachings that the player should take his card to the cashier to have credits placed. For example, the Examiner is referred to column 2, lines 42 to 54, and column 7, lines 4 to 15. The foregoing arrangement is distinguishable from Applicant's claimed invention which credits winning proceeds to the terminal.

The Examiner relies on Webb for teaching a method of playing a craps game wherein a dealer shoots the dice. However, there is no motivation or teaching that they should be combined. Those skilled in the art will readily appreciate that Webb effectively teaches an entirely new game. It is only related to craps in the sense that dice are rolled.

Webb is principally directed towards the player rolling the dice, and indeed it is apparent from the discussion of the background art and the Summary of Invention that this is the case (see for example column 1 lines 31 to 33; column 3 lines 20 to 25; column 3 lines 51 to 55). The dealer as a possible rolling party is mentioned as a minor alternative, it is certainly not the main thrust of the teaching which is in fact about a new dice game rather than the dealer should remain roller of the dice. This specifically teaches away from games such as Sic-Bo (column 1, lines 43 to 48). It does not teach anything in particular about payments, rather, in a very general way it teaches that the game can be played in slot machines or otherwise as desired.

If one was to combine Webb with Franchi, then one would be attempting to combine 2 teachings having reference to distinct problems. Webb is about providing a less confronting game for novice players (see column 1, lines 20 to 28). It is about recommending a new dice game, with significant and fundamental changes to the rules of craps. Franchi, on the other hand, is about a casino operating system in which a betting card is used together with as much (00005944.)

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automation as possible. There is no motivation or teaching that they should be combined.

Similarly, Franchi does not suggest the invention recited in claims 7 and 8. Claim 7 recites receiving a player credit entry at a dealer terminal after receipt of payment from a player. In contrast, Franchi makes clear that dealers do not handle cash. Instead, Franchi teaches that player payments are made at a casino bank which credits the betting card and pays out cash receipts. See column 2, lines 42 to 54, and column 7, lines 4 to 15.

Similarly, claim 8 recites "cashing out a player from said player terminal" and "paying credits directly to said player." This is precisely opposed to what is taught by Franchi. Franchi teaches that all player winnings are directed to the betting card. See column 2, lines 42 to 54, and column 7, lines 4 to 15. The player must take the betting card to the casino bank to be cashed out. Franchi teaches away from allowing the dealer to handle cash, let alone paying remaining credit balance on a player terminal directly to said player.

Claim 11 recites that the game outcome determining device is a roulette wheel, and further states that the at least one direct physical interaction includes a dealer spinning the wheel and manual dispensing of the ball. Franchi, as noted above, teaches directly away from this concept, recommending instead a fully automated roulette table.

Regarding claim 12, Franchi does little more than note that you could use their principle invention, relating to casino operating systems and betting cards, in relation to a Big Wheel game.

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Applicants have amended the claims to which the examiner has objected, and it is believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance.

Respectfully submitted,

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